

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF GUAM

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No.

JOHN D. WALKER,

1:18-cr-00010

aka JON WALKER,

MARVIN R. REED, KENNETH R. CROWE,

PHILLIP T. KAPP, RANDALL ROGERS,

HANSEN HELICOPTERS, INC., et al.,

Defendants.

HEARING

DATE: Monday, June 13, 2022

TIME: 8:35 a.m.

BEFORE: Honorable Frances M.

Tydingco-Gatewood

LOCATION: United States Courthouse

520 West Soledad Avenue

Hagåtña, Guam 96910

RECORDER: Carmen B. Santos

A P P E A R A N C E S

ON BEHALF OF PLAINTIFF:

SAMANTHA R. MILLER, ESQUIRE

Office of the United States Attorney

Sirena Plaza

108 Hernan Cortez, Suite 500

Hagåtña, GU 96910

ON BEHALF OF DEFENDANT, JOHN D. WALKER:

MACK K. MARTIN, ESQUIRE

Martin Law Office

125 Park Avenue, Fifth Floor

Oklahoma City, OK 73102

ON BEHALF OF DEFENDANT, PHILLIP T. KAPP:

EDWARD A. MCCONWELL, SR., ESQUIRE

LAURA L. MCCONWELL, ESQUIRE

McConwell Law Offices

8000 Foster Street

Overland Park, KS 66204

1 P R O C E E D I N G S

2 THE COURT: Please rise for the jury.

3 (Jury enters)

4 THE COURT: Please be seated, ladies
5 and gentlemen. Okay. Let's go ahead and call
6 the case, and then -- let's see, can we -- you
7 can see everybody on there, right, ladies and
8 gentlemen?

9 JUROR: Yes.

10 THE COURT: Okay. Let's go ahead and
11 call the case, Carmen.

12 CLERK: Good Morning, Your Honor. This
13 is Criminal Case Number 18-00010, the United
14 States of America v. John D. Walker and Hansen
15 Helicopters. Status hearing.

16 Counsel, please state your appearances
17 beginning with the Government.

18 MS. S. MILLER: Håfa adai, Your Honor,
19 this is Samantha Miller, on behalf of the United
20 States. And Special Assistant U.S. Attorney
21 Marie Miller is also on by telephone.

22 MS. M. MILLER: Håfa adai, Your Honor.

23 THE COURT: Håfa adai, Ms. Marie Miller
24 and Samantha Miller.

25 MR. MARTIN: Good afternoon, Your

1 Honor. This is Mack Martin, and also with me is
2 John Walker, who's in the bottom -- on my screen
3 on the bottom right.

4 THE COURT: Okay. So Mack Martin and
5 Mr. Walker. Good morning, Mr. Walker and Mr.
6 Martin.

7 MR. WALKER: Good morning.

8 MR. MCCONWELL: Good morning, Your
9 Honor. Edward McConwell, Laura McConwell for
10 Hansen Helicopter.

11 THE COURT: Okay, good morning, Mr.
12 McConwell, Ms. McConwell. And then how about Mr.
13 Han?

14 MR. MCCONWELL: I think he went to
15 Korea, Your Honor.

16 MS. S. MILLER: Mr. Han will not be
17 joining us.

18 MR. MCCONWELL: That's correct.

19 THE COURT: Okay, very well. All
20 right. So the juror -- all the jurors are
21 present with the exception of Juror Number 2,
22 who's seated in number two. She is ill, but
23 she's not personally present. But she's on the
24 phone. Is that right, Juror Number 2?

25 JUROR: Yes, Your Honor. Thank you.

1 THE COURT: Okay. So she's not --
2 okay, she's not feeling well. So let me just
3 give the jurors an update. As you know, we
4 recessed the other day, and we were supposed to
5 come back on Friday or Thursday, Friday, right.
6 And unfortunately, one of the lawyers became ill.
7 COVID. And so that meant, like, today would be
8 the fifth day and possibly that lawyer could come
9 in.

10 But I said that anybody else associated
11 with that lawyer who's been in this courtroom
12 would have to get tested as well today because I
13 didn't want them to come into the courtroom to
14 infect anyone. That was an issue that I had.
15 And plus, I wasn't sure how the lawyer might be
16 today because the results would be revealing
17 today.

18 But in addition, we have four jurors,
19 three of whom are going on vacation or going off
20 island this week, as you know and you know who
21 you are. I've got the jury numbers here, and
22 those include, for example, I'm not going to say
23 your name, but I'll tell you the dates. We have
24 today is June 13th. So June 14th. Tomorrow's a
25 departure date for one of our jurors, Juror

1 Number 4. Right. And then June 15, the day
2 after Juror Number 3 has a departure date. Is
3 that correct?

4 JUROR: That's next week.

5 THE COURT: Oh, next week. Okay. I
6 had June 15th. Did that change?

7 JUROR: Yes.

8 THE COURT: Okay, that changed. When
9 is your return date?

10 JUROR: The 20th.

11 THE COURT: Okay. So 20. I'm sorry.
12 So what is your date? You're going to depart
13 June 20 --

14 JUROR: (Indiscernible)

15 THE COURT: Okay. And arrive when?

16 JUROR: (Indiscernible)

17 THE COURT: July 25th. Thank you for
18 telling me that now. And then we also have a
19 juror, Juror Number 9, whose departure date is --
20 oh, yeah, July -- I'm sorry, June 18th, which is
21 next -- wait, 13, 14, Saturday. And return back
22 July 9th. Correct? All right, and then Juror
23 Number 8, the date for being, being away was June
24 22nd. Correct? Just one day. Let's see. I
25 have a return -- oh, Juror Number 4. Juror

1 Number 4. Okay. Return date is July 28th.

2 Correct? Okay. So that was a critical time,
3 July 28th.

4 So what I did was as I sat down and
5 evaluated this, we have, you know, potential
6 jurors, I mean, attorneys who are ill. And I
7 just wasn't sure. It was just too uncertain if
8 they would be ready to go today and we would be
9 finished by today. And there's no way because
10 the prosecution still has three more witnesses to
11 go, plus a deposition witness, so three live
12 witnesses and a deposition witness.

13 We still have to go through legal
14 motions. The Court has to take care of legal
15 motions. And then we have potentially the
16 defense has to let us know if they want to put on
17 a case-in-chief, which they don't, but they have
18 to make a decision. And then there's motions
19 after that and then we have our jury
20 instructions.

21 So realistically, we have at the very
22 most, at the very most, two weeks to finish
23 everything, but probably less than that. I don't
24 know, it depends on how fast we go, but that's
25 where we are. So I needed to speak to you

1 because we're going to continue this trial in
2 August. So that means that'll allow the jurors,
3 jurors that will come back on the 25th and the
4 28th to go ahead and go on your preplanned
5 vacation, because we honestly thought that this
6 trial would be completed way before then.

7 And you know, unfortunately, this, I
8 mean, it happens that there are delays in trial
9 that are unexpected. The one thing I would say
10 to all of the jurors, including the juror who's
11 on the line now, Juror Number 2 is ill, that each
12 and every one of you, and I know the attorneys
13 join me in saying this, we're very happy and
14 proud that you all have hung in there and even
15 have asked me to continue to hold jury trial in
16 the evening. And we've held it on Saturdays,
17 we've held on holiday time and so forth.

18 So what I want to do is I'm going to
19 have you speak to -- look at your schedules and
20 also because I don't know your schedules -- the
21 attorneys want to look at. The attorneys will
22 obviously want to work with your schedules, as I
23 do for August. We're going to look at sometime
24 in August, so everybody comes back July -- when
25 the last person that comes back is July 28th.

1 And so I'm going to ask Walter if he could speak
2 with all of you. Now all of you are here right
3 now. And when I'm going to -- when we recess
4 today -- when we recess today until the next time
5 we meet, and I'll have a status hearing before
6 this, I'm going to, you know, excuse the lawyers,
7 excuse myself, and then let you guys speak
8 amongst yourselves and with the other jurors. Is
9 that easier to do it that way since you're all
10 here?

11 JUROR: Yeah.

12 THE COURT: Why don't we do that? Or
13 else, do you guys just want to go into your room,
14 discuss it in there, then come out here? Or we
15 could get a phone and you could discuss it with
16 the juror that's ill. Because I told the juror
17 that's ill not to come in. What's easier? Just
18 stay here?

19 JUROR: Yeah.

20 THE COURT: Stay here. Right? Okay.
21 So I'll leave. We'll leave. And Carmen, we
22 could just let them discuss it, right? It
23 doesn't have to be on the record. They can just
24 discuss it. Yeah. All right. We'll take care.
25 We'll leave. You guys can -- yeah, you guys can

1 talk to each other. All right. So what I'm
2 going to do is I'm going to -- is there anything
3 else, Counsels? So you will let Walter know, Mr.
4 Tenorio, my jury administrator, know, and we'll
5 come back and we'll have the same schedule, trial
6 schedule.

7 All the prosecutors, defense counsels
8 will come back and work. They've already -- most
9 of them have departed. And then we will continue
10 on. Let me just ask prosecution, Ms. Marie
11 Miller, is there anything that you want? Is
12 there anything else I need to cover? And I'll
13 give you guys a briefing schedule as well.

14 MS. M. MILLER: Yes, Your Honor, I
15 would only ask. So I myself have had a family
16 vacation scheduled for over a year that starts on
17 September 1st. So to the extent that we could
18 start as early in August as possible, that would
19 be preferable.

20 THE COURT: Yep, that's fine. That's
21 good to know. So that's good to know.

22 MS. M. MILLER: Yes. But other than
23 that, Your Honor, no, everything is good to go.
24 I echo your statement about the jurors. Just we
25 appreciate their commitment tremendously. Thank

1 you.

2 THE COURT: Yeah. And I was thinking
3 that if we -- the earliest we could start, and
4 I'm looking at the schedule because of August,
5 because of my August schedule too, is July 30th,
6 which is a Saturday. I hate to ask you to do
7 that, but to start on July 30th, Saturday, or for
8 sure, August 1, which is Monday. So you guys let
9 the jurors talk about it amongst each other.
10 I'll let you guys talk about it. Is it -- so
11 yes, Ms. McConwell, you wanted to say something?

12 MS. MCCONWELL: I have a commitment
13 from July 30th through August 6th.

14 THE COURT: Oh, July 30th to August
15 6th.

16 MS. MCCONWELL: Yes, ma'am.

17 THE COURT: All right. So that's good
18 to know. Let's just pull this through. Anybody
19 else, lawyers? Okay, now, we know Marie Miller
20 is September. Ms. McConwell is July 30th to
21 August 6th. Mr. Martin?

22 MR. MARTIN: Your Honor?

23 THE COURT: Yeah.

24 MR. MARTIN: My only commitment is I
25 have a hearing has been continued three times.

1 It's now set for August 15th and 16th, which is
2 kind of a major hearing. I'll talk to the judge
3 and see if I can continue it one more time. I
4 just want to make you aware of that. If I have
5 any issue, I'll come to the --

6 THE COURT: Okay. All right. So
7 August 6th, August 15th, and then how about you,
8 Mr. McConwell?

9 MR. MCCONWELL: Your Honor, I'm going
10 to go ahead and have my surgery next week, and I
11 should be okay by the 10th of August. And
12 probably, realistically, after Mr. Martin's
13 hearing is when we're going to be -- it's
14 probably going to work out that way.

15 MS. M. MILLER: Your Honor, that is
16 obviously going to be pushing it way too close to
17 September 1 if we do that.

18 THE COURT: Well, if we do -- so when
19 I, when we spoke with the lawyers the other day,
20 we gave two weeks as the outer bound time. So,
21 so August 15 to August 26 might -- I'm sorry,
22 August 15 -- I see what you're saying. Oh, yeah.
23 Or 29th. August 25 to 29. Your thing doesn't
24 start to September 1, right?

25 MS. M. MILLER: Yes, Your Honor, it

1 doesn't start until September 1. But if Mr.
2 Martin could adjust his hearing, I don't see any
3 reason why we couldn't start sooner.

4 THE COURT: Well, look at -- we'll look
5 at the calendar. I will tell you that I have to
6 be in Washington, D.C. I don't know if I can get
7 out of that commitment. August 10th through the
8 12th. So that's kind of -- so if he does -- if
9 he goes August 15, maybe he can have his hearing
10 before that, and we could start August 15th or
11 yeah, right around --

12 MS. M. MILLER: If we start August
13 15th, it will be guaranteed to be done before
14 September 1, and that'll be fantastic.

15 THE COURT: Yeah.

16 MR. MARTIN: Marie? How long are you
17 gone, Marie?

18 MS. M. MILLER: I'm gone for a month.

19 THE COURT: Oh, yeah, yeah, we don't
20 want that. We want this done, like, sooner than
21 later so you guys can remember all the, you know,
22 excitement that you just had in the last six
23 weeks.

24 MS. M. MILLER: I mean, that is the
25 other challenge here, Your Honor, is obviously,

1 the longer we wait, the more challenging it
2 becomes for the jury, because we started the case
3 in February. So, you know, anyway, I think, you
4 know, the soonest in August we could start the
5 best.

6 THE COURT: Okay. So I'll let --

7 MR. MARTIN: Your Honor?

8 THE COURT: Yes, Mr. Martin?

9 MR. MARTIN: I was just going to say,
10 let's all get our calendars and get together and
11 try to get a date that can work for everybody.
12 That's about all we can do, Judge.

13 THE COURT: I know. I would say that
14 August 15th start date sounds reasonable based on
15 your schedules. Oh, let me just ask Samantha
16 Miller. I'm sorry, Ms. Samantha Miller. You're
17 schedule, too?

18 MS. S. MILLER: Thank you, Your Honor.
19 Any of those dates in August would be fine for
20 me.

21 THE COURT: Okay, very well. Yes, Ms.
22 McConwell.

23 MS. MCCONWELL: Well, Your Honor, I was
24 just going to say, when we were discussing juror
25 vacations early on, I didn't have on my list

1 anything after the first four jurors, and I don't
2 know what other jurors might already have
3 commitments in that timeframe. So we probably
4 need to find that out as well.

5 THE COURT: Yeah. They'll talk to each
6 other. I'll let them talk to each other rather
7 than us do that. Let them talk to each other so
8 they kind of have an idea where we are. We're
9 looking at hopefully starting August 15th, start
10 date and trying to get it done. Prosecution,
11 realistically, Ms. Marie Miller, how long just in
12 your case-in-chief, to finish your case-in-chief?
13 Is that true you only have three live witnesses
14 remaining and one deposition?

15 MS. M. MILLER: Yes, Your Honor. Yes,
16 and we are not going to use the deposition, so
17 that's scratched. And we have --

18 THE COURT: Sorry, Emily, we really had
19 to work through all that. But go ahead.

20 MS. M. MILLER: I know. We're trying
21 to finish efficiently and effectively.

22 THE COURT: Perfect.

23 MS. M. MILLER: So we have the rest of
24 Mr. (indiscernible), the IRS agent --

25 THE COURT: Yeah.

1 MS. M. MILLER: And then we have Mr.
2 Guzzetti, who's already been identified as an
3 expert, so his background has already been
4 presented to the jury. And then we have Jeffrey
5 Klang, who is our summary witness, and we are
6 finished. So we will be finished within three
7 days of starting.

8 THE COURT: Okay. Oh, oh, okay. So if
9 you're -- if we start -- realistically, if we
10 start August 15, 16, 17, you will be done by the
11 17th hopefully?

12 MS. M. MILLER: We will be done by the
13 end of the 17th. Yes, Your Honor.

14 THE COURT: Okay. Which is a
15 Wednesday. And then -- okay, and then Mr.
16 Martin, Ms. McConwell, Mr. McConwell and Mr. Han
17 -- well, you can tell Mr. Han, you guys should be
18 prepared to figure out what -- how you want to
19 proceed and be ready to proceed if you're going
20 to, you know, whatever way you're going to go.
21 So we know. And then I'm going to issue -- so
22 the jurors know, the attorneys are filing they're
23 briefing. I just sent -- I'm just doing a
24 briefing schedule right now on -- that's in --
25 oh, I'm sorry, that's in Crowe. Yeah, but no,

1 but we're going to issue a briefing schedule on
2 during jury instructions. Once we get jury
3 instructions.

4 My law clerk and I are working on jury
5 instructions, Counsels, as you know. So we'll
6 send you ours and then you get back, we'll give
7 you a briefing schedule to meet and confer and
8 only tell me what you're going to -- and I've
9 already said this. Tell me what you're going to
10 object to and what substitution you have and
11 what's the source of that substitution on jury
12 instruction so that we can hopefully -- it's my
13 goal, if we can get it done the week of the 15th,
14 that'll be nice. And then the jurors can just
15 start deliberating. Okay.

16 MS. M. MILLER: Perfect. Thank you,
17 Your Honor.

18 THE COURT: Yeah. But I want to
19 emphasize to these very dedicated and faithful
20 jurors that we need you to stay tight, stay
21 healthy, stay together, because we need you to
22 the end. All of you. Every one of you who's in
23 this courtroom. Okay. And our juror that's ill.
24 All right. Any questions? Any --

25 JUROR: Your Honor, may I --

1 THE COURT: Yes. Yes, Juror Number 2?

2 JUROR: Okay, I'm just -- yeah, I
3 should be okay. My August schedule should be
4 okay.

5 THE COURT: Okay, well, you --

6 JUROR: (Indiscernible) vacation until
7 October, November.

8 THE COURT: I'm sorry?

9 JUROR: My vacation will not be -- my
10 vacation schedule is not until October or
11 November. So that will be okay.

12 THE COURT: Oh, we will be done by
13 then. That is the goal, my dear. That is the
14 goal. How about jurors? Any questions from the
15 jurors? None? Okay. Yes?

16 JUROR: Since there's three alternates
17 left, would it be possible if when they get
18 better to finish this? If we talk amongst
19 ourselves and we use the three alternates and
20 they leave or do we have to wait for them?

21 THE COURT: No, all the alternates have
22 to stay in.

23 JUROR: Oh.

24 THE COURT: No, the alternates are
25 still -- you guys are still --

1 JUROR: Oh.

2 THE COURT: No, you are still very
3 important. Let me tell you something. And
4 alternates are just as important as the
5 non-alternates.

6 JUROR: Okay.

7 THE COURT: Probably, you know, if I
8 had to do it again, we wouldn't call you
9 alternates. But if anything, like, for example,
10 and I think I've said this, if anything were to
11 happen to any of these jurors during
12 deliberation, we have to call you in and they
13 start the deliberation again.

14 JUROR: Oh, okay.

15 THE COURT: So you guys are very
16 important. So I don't want you to separate
17 because you're not second class citizens here.
18 You guys are still really -- you're just as
19 important, really. I mean, we look at you, we
20 lost three. So see, if we had gone forward here,
21 here's the way I looked at it. If we had gone
22 forward this week and there would have been a
23 risk that we would have --

24 JUROR: Yeah.

25 THE COURT: Three jurors would have had

1 to go on their vacation. If we had gone forward,
2 we would have used all three alternates. But
3 what if something happened to another juror? We
4 have to start this trial again from the
5 beginning.

6 JUROR: Yeah, okay.

7 THE COURT: We do not want to start
8 this trial again.

9 JUROR: Yes.

10 MR. MARTIN: Your Honor --

11 THE COURT: You know, for a lot of
12 reasons. It's a cost factor. The Defendant has
13 a right to get his trial done. The Defendant has
14 a right to have his trial proceed. And the
15 Defendant and the prosecution both chose all of
16 you jurors, you know, the 12, and then the
17 alternates and so forth. So that was critical in
18 our decision-making. All of you, the remaining
19 jurors, the 15 of you are very critical to the
20 successful completion of this case. Yes, Mr.
21 Martin, did you --

22 MR. MARTIN: Your Honor, I was just
23 going to ask if you could go ahead and remind the
24 jurors of the admonition not to discuss the case
25 among themselves.

1 THE COURT: Yes. I was going to do.
2 Yeah, I'm going to do that.

3 MR. MARTIN: Thank you.

4 THE COURT: All right. So, ladies and
5 gentlemen, the jury, of course, you know, you
6 guys are -- have seen most of the trial. We're
7 at the very end, really. The prosecution really
8 only has a couple of days left, two or three days
9 remaining, three witnesses, and that's what she's
10 indicated.

11 So it's important that you still keep
12 an open mind. And I know that you probably have
13 memorized this instruction. Do not speak to
14 anyone on any subject connected with the trial.
15 You know, if somebody says, hey, are you a juror?
16 You can say yes, but I can't speak about anything
17 that's going on in this courtroom. It's critical
18 that you base your decision only on the evidence
19 that you hear in this courtroom and the law, as I
20 give to you.

21 Also, too, I gave you that long
22 instruction a couple of times about staying away
23 from any social media accounts of this trial.
24 For example, the newspaper, the radio, the
25 television, Facebook and so forth. Do not look

1 at any of those accounts of it, of the trial, if
2 you see it or come across it, and clearly do not
3 be influenced by it. You cannot be. The main
4 component of your deliberation has to be that you
5 receive the evidence here in the courtroom and
6 you follow the law as the Court gives you. Okay?

7 JUROR: Okay.

8 THE COURT: So make sure that you do.
9 Any questions?

10 JUROR: No.

11 THE COURT: No? Thank you very much.
12 Okay, we will recess. Counselors, we're going to
13 get off the record now. Nobody -- this will not
14 be recorded. Only this part's recorded for my
15 jury -- I mean, for my record. But we will get
16 off the public Zoom. I mean, everything. And
17 only the jurors will be able to speak to each
18 other. Okay.

19 MR. MARTIN: Thank you, Your Honor.

20 THE COURT: And Number 2, please do not
21 hang up. Okay, Juror Number 2?

22 JUROR: Okay, Your Honor.

23 THE COURT: All right. All right, you
24 take care. Thank you, everyone. Be safe.

25 MS. M. MILLER: Thank you, Your Honor.

1 THE COURT: I'll see you all pretty
2 soon again.

3 JUROR: Okay.

4 THE COURT: Yeah.

5 MR. MCCONWELL: Thank you, Your Honor.

6 THE COURT: Yes.

7 MS. M. MILLER: Thank you, Your Honor.

8 THE COURT: Okay, bye.

9 MS. M. MILLER: Have a good day.

10 MS. MCCONWELL: Thank you, Your Honor.

11 THE COURT: Have a good day, too. Take
12 care.

13 MS. M. MILLER: Thank you.

14 MS. MCCONWELL: Thank you, jurors.

15 MR. MCCONWELL: Bye.

16 THE COURT: Okay.

17 (Proceedings adjourned at 8:56 a.m.)

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C E R T I F I C A T I O N

I, Sonya Ledanski Hyde, certify that the
foregoing transcript is a true and accurate
record of the proceedings.

Sonya M. Ledanski Hyde

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Date: July 29, 2025

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